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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,041	06/15/2001	Glenn Philander Vonk	39994	5157
26253	7590	08/30/2005	EXAMINER	
DAVID W. HIGHET, VP AND CHIEF IP COUNSEL BECTON, DICKINSON AND COMPANY 1 BECTON DRIVE, MC 110 FRANKLIN LAKES, NJ 07417-1880				TOMASZEWSKI, MICHAEL
ART UNIT		PAPER NUMBER		
		3626		

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/881,041	VONK ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Mike Tomaszewski	3626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 June 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-20 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 20 February 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date *6 March 2002*.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_ .

**DETAILED ACTION**

***Notice To Applicant***

1. This communication is in response to the application filed on 15 June 2001. Claims 1-20 are pending. The IDS statement filed on 6 March 2002 has been entered and considered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ballantyne et al. (5,867,821; hereinafter Ballantyne).

(A) As per claim 1, Ballantyne discloses a system for monitoring health-related conditions of patients, comprising:

- (i) a plurality of remote monitoring stations, each being adapted to receive patient health-related data pertaining to a respective patient (Ballantyne: col. 2, lines 25-26; col. 8, lines 1-2; col. 9, lines 1-15; Fig. 1-3); and
- (ii) a computer network comprising a database containing accumulated health-related data pertaining to health-related conditions and treatment, said computer network being adapted to receive said patient health-related data from said remote monitoring stations, to establish treatments programs for said patients based on their respective patient health-related data and said accumulated health-related data, and to revise said accumulated health-related data based on said patient health-related data (Ballantyne: col. 2, lines 24-54; col. 15, lines 56-65; Fig. 7A).

(B) As per claim 2, Ballantyne discloses a system as claimed in claim 1, wherein: each of said remote monitoring stations includes at least one measuring device, adapted to measure a physiological condition of said respective patient, and to provide data representative of said physiological condition for inclusion among said patient health-related data (Ballantyne: col. 11, lines 18-27).

(C) As per claim 3, Ballantyne discloses a system as claimed in claim 1, wherein:

said remote monitoring stations are adapted to provide said patient health-related data to said computer network over the Internet (Ballantyne: Fig. 1, 5 and 7B).

(D) As per claim 4, Ballantyne discloses a system as claimed in claim 1, wherein:  
said computer network further includes at least one data access device, adapted to provide a health care provider access to said computer network and said database (Ballantyne: Fig. 2-7B).

(E) As per claim 5, Ballantyne discloses a system as claimed in claim 1, wherein:  
said computer network is adapted to generate reports, each including health-related information pertaining to a respective said patient (Ballantyne: col. 15, lines 22-67; col. 16, lines 1-13).

(F) As per claim 7, Ballantyne discloses a system as claimed in claim 1, wherein:  
each said remote monitoring station receives from its respective said patient said health related data including data pertaining to the cardiovascular system of said patient (Ballantyne: col. 11, lines 18-27).

(G) Claims 8-12 and 14 substantially repeat the same limitations of claims 1-5 and 14, respectively, and are therefore rejected for the same reasons given for those claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne as applied to claim 1 and 8 respectively above, and further in view of Joao (6,283,761; hereinafter Joao).

(A) As per claim 6, Ballantyne fails to expressly disclose a system as claimed in claim 1, wherein:

    said computer network is adapted to provide said accumulated health-related data stored in said database to organizations financing at least a portion of said treatment programs, and is adapted to receive financial data pertaining to said treatment programs from said organizations and to store said financial data in said

database. Nevertheless, these features are old and well known in the art, as evidenced by Joao.

In particular, Joao discloses a system as claimed in claim 1, wherein: said computer network is adapted to provide said accumulated health-related data stored in said database to organizations financing at least a portion of said treatment programs, and is adapted to receive financial data pertaining to said treatment programs from said organizations and to store said financial data in said database (Joao: col. 4, lines 31-47; col. 37, lines 35-47; Fig. 1).

One having ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao within the Ballantyne system with the motivation of facilitating the creation, management, quality, efficiency and effectiveness of healthcare services (Joao: col. 2, lines 38-54).

(B) Claim 13 substantially repeats the same limitations of claim 6, and is therefore rejected for the same reason given for that claim.

6. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne in view of Joao and further in view of Russek (5,319,355; hereinafter Russek).

(A) As per claim 15, Ballantyne discloses a method for managing health-related conditions of patients, comprising:

- (i) collecting said healthcare data by using each said healthcare manager to collect respective health-related data for each respective patient in their said group of patients (Ballantyne: col. 2, lines 33-35; Fig. 11A-11D);
- (ii) controlling a computer network to receive said health-related data from each of said healthcare managers, and to store said health-related data pertaining to each said patient in a database, said database further including accumulated data pertaining to health-related conditions and treatments (Ballantyne: col. 12, lines 36-67 and col. 13, lines 1-18; Fig. 11A-11D); and
- (iii) updating said accumulated data in said database based on said health-related data provided by said healthcare managers (Ballantyne: col. 12, lines 33-35).

Ballantyne, however, fails to expressly disclose a method for managing health-related conditions of patients, comprising:

- (i) assigning healthcare managers to said patients, such that each said healthcare manager is assigned to a respective group of said patients; and
- (ii) coordinating each said healthcare manager with at least one member of a primary care team to establish a treatment plan for each respective patient in their said group of patients based on said health-related data pertaining to that respective patient and said accumulated data.

Nevertheless, these features are old and well known in the art, as evidenced by Russek and Joao.

In particular, Russek discloses a method for managing health-related conditions of patients, comprising:

- (i) assigning healthcare managers to said patients, such that each said healthcare manager is assigned to a respective group of said patients (Russek: col. 9, lines 29-32).

One having ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Russek within the Ballantyne system with the motivation of providing efficient and reliable communications concerning the medical conditions of patients (Russek: col. 3, lines 28-29).

The collective teachings of Russek and Ballantyne, however, fail to expressly disclose a method for managing health-related conditions of patients, comprising:

- (ii) coordinating each said healthcare manager with at least one member of a primary care team to establish a treatment plan for each respective patient in their said group of patients based on said health-related data pertaining to that respective patient and said accumulated data.

Nevertheless, this feature is old and well known in the art, as evidenced by Joao. In particular, Joao discloses a method for managing health-related conditions of patients, comprising:

- (ii) coordinating each said healthcare manager with at least one member of a primary care team to establish a treatment plan for each respective patient in their said group of patients based on said health-related data pertaining to that respective patient and said accumulated data (Joao: col. 4, lines 33-39 and col. 12, lines 22-43).

One having ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao within the collective teachings of Ballantyne and Russek with the motivation of facilitating the creation, management, quality, efficiency and effectiveness of healthcare services (Joao: col. 2, lines 38-54).

(B) Claims 16-20 substantially repeat the same limitations of claims 1, 3 and 5-7, and are therefore rejected for the same reasons given for those claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches a method, system and computer program product for Internet-enabled, patient monitoring system (US 2003/0036683); a remote monitoring and data management platform (US 2004/0019259); a monitoring system for remotely querying individuals (6,248,065); and an electronic medical records system (5,924,074).

The cited but not applied prior art also includes non-patent literature articles by Business Editors ("CYBeR-CARE Announces U.S. Patent Office Allows 25 Additional Claims For Its Internet Healthcare Technologies" Oct. 6, 1999. Business Wire. pg. 1.); Joanne Wojcik. ("Oxford Health Unveils New Care Procedures" Mar. 31, 1997. Business Insurance. Vol. 31, Iss. 13. pg. 2.); and Polly Summar ("Hospitalist Helps Fill Gap In Patient Care" Dec. 5, 1999. Albuquerque Journal. pg. 5.).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT *MT* 8.8.05

  
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